

Proposed technical correction:

SECTION #.(a) G.S. 53-208.45 reads as rewritten:

"§ 53-208.45. License application.

(a) Applications under this Article shall be filed through the NMLS in a form acceptable to the Commissioner. To be considered complete, all applications shall be verified by oath or affirmation of the applicant or a designee thereof and shall ~~contain~~contain all the following:

- ★ (1) The legal name, along with any ~~assumed names or trade names~~, assumed business names, principal address, contact information, and social security number or taxpayer identification number of the applicant.
- (2) The applicant's form and place of organization, if applicable.
- (3) A certificate of good standing from the state in which the applicant was incorporated, if applicable.
- ★ (4) A certificate of authority from the North Carolina Secretary of State to conduct business in this State, if required by the North Carolina Business Corporations Act, Chapter 55 of the General Statutes, or other evidence of the applicant's registration or qualification to do business in this State.
- (5) A copy of the applicant's active money service business registration with the United States Department of Treasury Financial Crimes Enforcement Network.
- (6) A detailed description of the organizational structure of the applicant, including the identity of parents or subsidiaries of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange.
- (7) A detailed business plan, including a description of the activities conducted by the applicant, including a history of any existing operations and a description of the money transmission activities in which the applicant seeks to be engaged in the State.
- (8) A copy of the applicant's policies and procedures, including the anti-money laundering compliance program.
- (9) A detailed description of the applicant's internal business controls, including controls specific to information technology and data integrity.
- (10) The history of the material civil litigation and a record of any criminal convictions for the applicant, controlling person, and key management personnel for a 10-year period prior to the date of the application, including authorization to perform a federal and State criminal background check.
- (11) The name, business and residence address, and employment history for the past five years for any controlling person and key management personnel.
- (12) A sample payment instrument, if applicable, which bears the name and address or telephone number of the issuer clearly printed on the payment instrument.
- (13) If the applicant seeks to engage in money transmission in this State through authorized ~~delegates~~delegates, all the following:
 - a. A list identifying the proposed authorized delegates, including the name, mailing address, and other contact information of a representative of the authorized delegate and associated branch ~~locations~~locations.
 - b. A sample authorized delegate contract.
- (14) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which the payment instruments will be payable.

- (15) A copy of the applicant's most recent audited financial statement, including the balance sheet, statement of income or loss, statement of changes in shareholder equity, if applicable, and statement of changes in financial position and the applicant's audited financial statements for the immediately preceding two-year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two-year period or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this ~~provision~~ subdivision.

- (16) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application.

(b) Upon request by the Commissioner or the Commissioner's designee, the applicant shall furnish any additional information necessary to enable the Commissioner to evaluate the application as required by G.S. 53-208.50.

(c) The Commissioner ~~is authorized, may, for~~ good cause shown, ~~to~~ waive any requirements of this section with respect to any application or ~~to~~ permit any applicant to submit equivalent information in lieu of the information required by this section." (2016-81, s. 1; 2017-102, s. 46.)

SECTION #.(b) G.S. 53-208.56 reads as rewritten:

"§ 53-208.56. Licensure authority.

The Commissioner may by order, deny, suspend, revoke, or refuse to issue a license under this Article, or may restrict or limit the manner in which a licensee or applicant engages in the business of money transmission, if the Commissioner finds both of the following:

(1) That the order is in the public ~~interest; and~~ interest.

(2) Any of the following circumstances apply:

a. Any fact or condition exists that, if it had existed at the time of application, would have been grounds for ~~denial; denial~~.

b. The licensee or applicant has filed any application, report, or other document with the Commissioner containing statements that, in light of the circumstances in which they were made, were false or misleading with respect to a material ~~fact; fact~~.

c. The licensee or applicant fails at any time to meet the requirements of G.S. 53-208.46, 53-208.47, or ~~53-208.48; 53-208.48~~.

d. A controlling person or key management personnel of the licensee or applicant has been convicted ~~of~~ of any of the following:

1. A misdemeanor in the last 10 years involving fraud, money laundering, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or conspiracy to

- commit any of these offenses or involving any financial service or financial service-related ~~business; or~~ business.
2. Any felony in the last seven years.
- e. → The licensee or applicant has violated or failed to comply with any provision of this Article, rule issued pursuant to this Article, or order of the ~~Commissioner;~~ Commissioner.
- f. → The licensee has conducted its business in an unsafe or unsound ~~manner;~~ manner.
- g. → The licensee or applicant is insolvent, has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become ~~due;~~ due.
- h. → The licensee fails to respond to and cooperate fully with notices from the Commissioner or the Commissioner's designee related to the scheduling and conducting of an examination or investigation pursuant to ~~§ 53-208.55;~~ G.S. 53-208.55.
- ★ i. The licensee or applicant fails to respond to inquiries from the Commissioner or the Commissioner's designee regarding any complaints filed, which allege or involve violation of this ~~Article;~~ Article.
- j. The licensee fails to make any report required by this ~~Article;~~ Article.
- k. The licensee or applicant is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the money transmission ~~business; or~~ business.
- l. The licensee or applicant is the subject of an order entered within the past five years by the authority of any state or federal agency with jurisdiction over the business of money transmission." (2016-81, s. 1; 2017-102, s. 46.)

SECTION #.(c) G.S. 53-208.62 reads as rewritten:

"§ 53-208.62. Commissioner's participation in nationwide registry.

→ (a) The Commissioner may require all persons subject to this Article to be licensed through the NMLS, and upon issuing ~~such~~ this requirement, the Commissioner shall establish a reasonable transition period. In order to carry out these requirements, the Commissioner ~~is authorized to~~ may participate in the NMLS.

→ (b) The Commissioner ~~is authorized to~~ may establish relationships or contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other ~~person~~ persons subject to this Article.

★ → (c) For the purpose of participating in the NMLS, the Commissioner ~~is authorized to~~ may waive or modify, in whole or in part, any or all of the requirements as reasonably necessary to participate in the NMLS." (2016-81, s. 1; 2017-102, s. 46.)

Explanation: In addition to cleaning up language, this proposed technical correction does the following:

(1) It amends G.S. 53-208.45(a)(1), located in the current Money Transmitters Act, to conform to Article 14A of Chapter 66 of the General Statutes, entitled the "Assumed Business Name Act",

which was enacted by S.L. 2016-100 and S.L. 2017-23. Section 4 of S.L. 2016-100 made this conforming change to the predecessor provision in the former Money Transmitters Act. The former Money Transmitters Act was repealed and replaced by S.L. 2016-81.

- (2) It inserts the missing word "the" in G.S. 53-208.45(a)(4).
- (3) It fixes a citation error in G.S. 53-208.56(2)h.
- (4) It fixes a typographical error in the phrase "or other person" in G.S. 53-208.62(b).

Session law excerpt:

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2016-100
SENATE BILL 124**

AN ACT TO MODERNIZE THE LAW GOVERNING THE USE OF ASSUMED BUSINESS NAMES AND TO MAKE RELATED CONFORMING AND TECHNICAL AMENDMENTS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION; TO CLARIFY HOW THE INDUSTRIAL COMMISSION REFERS MATTERS OF INDIRECT CRIMINAL CONTEMPT TO THE DISTRICT COURT; TO REMOVE CERTAIN PROPERTY FROM THE STATE NATURE AND HISTORIC PRESERVE; AND TO AUTHORIZE THE DELETION OF VARIOUS PROPERTIES FROM THE STATE PARKS SYSTEM.

The General Assembly of North Carolina enacts:

PART I. ASSUMED BUSINESS NAME ACT

SECTION 1. Article 14 of Chapter 66 of the General Statutes is repealed.

SECTION 2. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 14A.
"Assumed Business Name Act.

"§ 66-71.1. Short title.

This Article may be cited as the "Assumed Business Name Act."

"§ 66-71.2. Statement of purpose.

The purpose of this Article is to afford the public a means of ascertaining the real name of persons engaging in business in this State under an assumed business name by requiring those persons to register the assumed business name as provided in this Article.

...

SECTION 4. G.S. 53-208.7(a) reads as rewritten:

"(a) Each application for a license under this Article shall be made in writing, under oath, and in a form prescribed by the Commissioner. For all applicants, each application shall contain:

- (1) The exact name of the applicant, the applicant's principal address, any assumed ~~or trade~~ business name used by the applicant in the conduct of its business, and the location of the applicant's business records.

...."

...
SECTION 12. Sections 1 through 9 of this act become effective July 1, 2017, and do not affect a civil action or proceeding commenced or a right accrued before July 1, 2017. Sections 1 through 9 of this act become effective only if funds are appropriated by the 2015 General Assembly, 2016 Regular Session, to implement the provisions of G.S. 66-71.9, as enacted by Section 2 of this act. Section 10 of this act becomes effective October 1, 2016, and applies to proceedings for indirect criminal contempt filed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 2016.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 2:02 p.m. this 18th day of July, 2016